

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

EDIZONE, L.C.,

Plaintiff,

vs.

CLOUD NINE, et al.,

Defendants.

MEMORANDUM DECISION AND
ORDER GRANTING MOTION TO
REMAND DENIAL OF
PERMISSION FOR COUNSEL'S
WITHDRAWAL TO MAGISTRATE
JUDGE FOR HEARING

Case No. 1:04-CV-117 TS

CLOUD NINE, et al.,

Counterclaim-Plaintiffs and
Third-Party Plaintiffs,

vs.

EDIZONE, L.C.,

Counterclaim-Defendant,

and

TERRY PEARCE, et al.,

Third-Party Defendants.

On July 9, 2007, Plaintiff filed a Motion for Voluntary Dismissal.¹ In that Motion, Plaintiff seeks to dismiss all claims against the Cloud Nine Defendant with prejudice. This is the result of an agreement between the insurers of the Cloud Nine Defendants and Plaintiff. The Cloud Nine Defendants requested² and received³ additional time to respond to the Motion. As a result of a potential conflict between the insurers of the Cloud Nine Defendants and the Cloud Nine Defendants themselves, Clyde, Snow, Sessions & Swenson (“CSSS”) filed a Motion to Withdraw.⁴ That Motion was denied by the Magistrate Judge by a docket text order.⁵ CSSS has now filed an objection to that order and a motion to remand the matter to the Magistrate Judge.

For non-dispositive pretrial matters, this court reviews the Magistrate Judge’s Orders under a “clearly erroneous or contrary to law” standard of review.⁶ Under the clearly erroneous standard, this court will affirm the Magistrate Judge’s ruling “unless it ‘on the entire evidence is left with the definite and firm conviction that a mistake has been committed.’”⁷ Courts recognize that wide discretion is given the magistrate judge in discovery rulings.⁸

¹Docket No. 574.

²Docket No. 576.

³Docket No. 590.

⁴Docket No. 611.

⁵Docket No. 613.

⁶28 U.S.C. § 636(b)(1)(A).

⁷*Ocelot Oil Corp. v. Sparrow Indus.*, 847 F.2d 1458, 1464 (10th Cir. 1988) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

⁸*Soma Med. Int'l v. Standard Chartered Bank*, 196 F.3d 1292, 1300 (10th Cir. 1999).

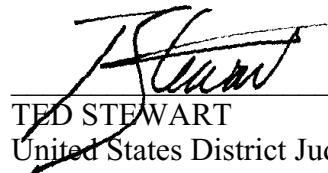
The Order Denying CSSS's Motion to Withdraw states: "DOCKET TEXT ORDER denying 611 Motion to Withdraw as Attorney. Signed by Judge Samuel Alba on 8/1/07. No attached document."⁹ The Court believes that further clarification from the Magistrate Judge would be helpful on this issue. Therefore, the Motion to Withdraw will be remanded to the Magistrate Judge.

It is therefore

ORDERED that Defendants' Motion to Remand Denial of Permission for Counsels' Withdrawal to Magistrate Judge for Hearing (Docket No. 616) is GRANTED. It is further ORDERED that Defendants' Objection to Magistrate Judge's Order Denying Permission to Withdraw as Counsel (Docket No. 615) is DISMISSED AS MOOT.

DATED August 23, 2007.

BY THE COURT:



TED STEWART
United States District Judge

⁹Docket No. 613.